

## **803 KAR 1:100. Child labor.**

RELATES TO: KRS 339.205-339.990, 29 C.F.R. Part 570, 29 U.S.C. 201-219

STATUTORY AUTHORITY: KRS 339.230

NECESSITY, FUNCTION, AND CONFORMITY: KRS 339.230(3) requires the Commissioner of the Department of Workplace Standards to promulgate administrative regulations to protect the life, health, safety, or welfare of minors. The commissioner may consider sex, age, premises of employment, substances to be worked with, machinery to be operated, number of hours, hours of the day, nature of the employment, and other pertinent factors. KRS 339.230(3) further provides that the commissioner in promulgating these administrative regulations may make them more restrictive than those promulgated by the United States Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments but in no event may he or she make them less restrictive. This administrative regulation establishes standards for the employment of minors. This administrative regulation and KRS 339.205 to 339.990 shall guide the Department of Workplace Standards in carrying out its responsibilities under the law and assist employers in understanding their obligations under the law.

Section 1. Definitions. (1) "Minor" means a person between the ages of fourteen (14) and eighteen (18) who is either:

- (a) Enrolled in public, private, or home school; or
  - (b) Not enrolled in school and has not achieved the required credits for graduation from high school as established by a local school district authority, pursuant to KRS 160.290.
- (2) "School in session" means that time as established by local school district authorities, pursuant to KRS 160.290.
- (3) "School not in session" means that period of time not included in subsection (2) of this section.

Section 2. Employment of Minors Between Fourteen (14) and Sixteen (16) Years of Age. (1) Minors between fourteen (14) and sixteen (16) years of age shall not be employed in any of the following:

- (a) Manufacturing, mining, or processing occupations, including occupations requiring the performances of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;
- (b) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;
- (c) The operation of motor vehicles or service as helpers on such vehicles;
- (d) Public messenger service;
- (e) Occupations in connection with:
  - 1. Transportation of persons or property by rail, highway, air, water, pipeline, or other means;
  - 2. Warehousing and storage;
  - 3. Communications and public utilities; and
  - 4. Construction (including demolition and repair), except office work, or sales work in connection with subparagraphs 1, 2, 3, and 4 of this paragraph, as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.
- (f) Any occupation which the U.S. Secretary of Labor finds and declares to be hazardous for the employment of minors and established in 29 C.F.R. 570.50 through 570.68; or
- (g) Any occupation prohibited under KRS 339.230(2)(d).

(2) Except as provided in subsection (3) of this section, employment in any of the occupations to which this section is applicable shall be confined to the following periods:

- (a) Outside school hours;
- (b) Not more than forty (40) hours in any one (1) work week when school is not in session;
- (c) Not more than eighteen (18) hours in any one (1) work week when school is in session;
- (d) Not more than eight (8) hours in any one (1) day when school is not in session;
- (e) Not more than three (3) hours in any one (1) school day, nor more than eight (8) hours in any one (1) nonschool day when school is in session; and
- (f) Between 7 a.m. and 7 p.m. in any one (1) day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

(3) Notwithstanding subsection (2)(a) of this section, a minor who is enrolled in a school supervised and administered work experience or career exploration program pursuant to 29 C.F.R. 570.35(a), if the employment will not interfere with the minor's schooling, health, or well-being, may work during school hours.

(4) Minors between fourteen (14) and sixteen (16) years of age may be employed by retail, food service, and gasoline service establishments in the following occupations:

- (a) Office and clerical work, including the operation of office machines;
- (b) Cashiering, selling, modeling, art work, work in advertising departments, window trimming, and comparative shopping;
- (c) Price marketing and tagging by hand or by machine, assembling orders, packing and shelving;
- (d) Bagging and carrying out customer's orders;
- (e) Errand and delivery work by foot, bicycle, and public transportation;
- (f) Clean up work, including the use of vacuum cleaners and floor waxers, and maintenance of grounds. Cleanup work shall not include the use of power-driven mowers, or cutters;
- (g) Kitchen work and other work involved in preparing and serving food and beverages, including the operation of machines and devices used in the performance of such work, such as but not limited to: dishwashers, toasters, dumbwaiters, popcorn poppers, milk shake blenders, and coffee grinders;
- (h) Work in connection with cars and trucks if confined to the following: dispensing gasoline and oil; courtesy service; car cleaning, washing, and polishing; and other occupations permitted by this section. This shall not include work involving the use of pits, racks, or lifting apparatus, or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring; and
- (i) Cleaning vegetables and fruits, and wrapping, sealing, labeling, weighing, pricing, and stocking goods if performed in areas physically separate from freezers and meat coolers.

(5) Subsection (4) of this section shall not be construed to permit the employment of minors between fourteen (14) and sixteen (16) years of age in any of the following in retail, food service, and gasoline service establishments:

- (a) All occupations listed in subsection (1) of this section;
- (b) Work performed in or about boiler or engine rooms;
- (c) Work in connection with maintenance or repair of the establishment, machines, or equipment;
- (d) Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds, or their substitutes;
- (e) Cooking (except at soda fountains, lunch counters, snack bars, or cafeteria serving counters) and baking;
- (f) Occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, food choppers, and cutters, and bakery-type mixers;

- (g) Work in freezers and meat coolers and all work in the preparation of meats for sale except as described in subsection (4)(i) of this section;
- (h) Loading and unloading goods to and from trucks, railroad cars, or conveyors; or
- (i) All occupations in warehouses except office and clerical work.

Section 3. Employment of Minors Between Sixteen (16) and Eighteen (18) Years of Age. (1) Minors between sixteen (16) and eighteen (18) years of age may be employed at any occupation except as restricted for the following occupations:

(a) Occupations particularly hazardous as declared by the U. S. Secretary of Labor and established in 29 C.F.R. 570.50 through 570.68.

(b) Any occupation prohibited under KRS 339.230(2)(d).

(2) Employment in any occupation, not prohibited by subsection (1) of this section, shall be confined to the following periods:

(a) Not more than thirty (30) hours in any one (1) work week when school is in session, except that a minor may work up to thirty-two and one-half (32.5) hours in any one (1) work week if a parent or legal guardian gives permission in writing in accordance with paragraph (c) of this subsection and up to forty (40) hours in any one (1) work week if a parent or legal guardian gives permission in writing, and the principal or head of the school the minor attends certifies in writing that the minor has maintained at least a 2.0 grade point average in the most recent grading period. School certification shall be valid for one (1) year unless revoked sooner by the school authority. The parental or guardian permission and school certification shall remain at the employer's place of business;

(b) Not more than six (6) hours in any one (1) school day, nor more than eight (8) hours in any one (1) non-school day when school is in session, except that a minor may work up to six and one-half (6.5) hours in any one (1) school day if a parent or guardian gives permission in writing in accordance with paragraph (c) of this subsection;

(c) Between 6 a.m. and 10:30 p.m. on days preceding a school day, except that a minor may be employed until 11:00 p.m. on days preceding a school day if a parent or legal guardian gives permission in writing. The parental or guardian permission shall remain at the employer's place of business; and

(d) Between 6 a.m. and 1 a.m. on days preceding a non-school day when school is in session. (LAB 120; 1 Ky.R. 157; eff. 12-11-74; Am. 3 Ky.R. 245; eff. 11-3-76; 6 Ky.R. 61; 179; eff. 9-5-79; 583; eff. 7-2-80; 28 Ky.R. 2081; 2350; eff. 5-16-2002; TAm eff. 8-9-2007; 44 Ky.R. 680, 935; eff. 12-1-2017.)